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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,023	07/10/2001	Walter H. Mawby	2051-00101	9285
23505	7590	06/23/2005	EXAMINER	
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			MARSH, STEVEN M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,023

Applicant(s)

MAWBY ET AL.

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,14-17 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 18,19,23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

This is the fifth office action for U.S. Application 09/902,023 for a Method For Constructing a Multi-Story Building filed by Mawby on July 10, 2001. Claims 2, 4, and 15-24 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 27, 2004 has been entered.

Allowable Subject Matter

Claims 18, 19, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, for the reasons stated in the previous action.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 2, 4, 14-17, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. in view of Cerutti et al. Stewart et al. discloses a structure (500) with a substructure (501) having a drive aisle (512, 512a, 512b) and a plurality of parking spaces (508, 510) and comprises a plurality of parallel adjacent tunnels that create two parking spaces next to each other (see fig. 13). Each tunnel includes a transverse drive aisle opening (512) and the substructure further includes a plurality of first tunnel walls (parking space tunnels 510 including the drive aisle 512) having a first length. The drive aisle opening in the first tunnel walls are wide enough to accommodate a parking space in addition to the drive aisle; and a plurality of second tunnel walls (parking space tunnels 508) have a second length that is less than the first length because they do not include a drive aisle.

There is a plurality of parking spaces configured such that a set of three adjacent tunnels includes at least four parking spaces. An interface level (531) has a plurality of parallel adjacent tunnels (figure 14), including a plurality of third tunnel walls (parking space tunnels 536) and includes the drive aisle (518b) vertically aligned above the first tunnel walls and having a third length that is as great as the first length. There is a plurality of fourth tunnel walls (parking space tunnels 508) vertically aligned with the second tunnel walls having a fourth length. There is a superstructure (figure 15) with a plurality of parallel adjacent tunnels with walls that are each vertically aligned with one of the first and second tunnel walls and wherein each first tunnel wall is separated from another first tunnel wall by a pair of second tunnel walls in the middle of the structure (figure 14).

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Stewart et al. does not specifically teach poured-in-place tunnels. Cerutti et al. teaches a method of forming a poured-in-place concrete tunnel (claim 12). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized the well-known poured-in-place concrete method for creating tunnels, to form the tunnels taught by Cerutti et al., to prevent flotation of the tunnel forms.

Response to Arguments

Applicant's arguments filed December 27, 2004 have been fully considered but they are not persuasive. First, it is noted that claims 18, 19, 23, and 24 were not rejected under section 103 in the previous action as indicated in Applicant's remarks. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant's claims are obvious in light of Stewart in view of Cerutti et al., not Stewart alone.

Applicant also argues that the drive aisle openings in each wall are not wide enough to span a parking space. However, it is not clear how wide a parking space should be. The width of a parking space could be any dimension depending on the dimensions of the vehicle the parking space is designed to accommodate.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Shh

Steven M. Marsh

June 17, 2005


RAMON O. RAMIREZ
PRIMARY EXAMINER